

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

CHEVRON CORPORATION,

Petitioner,

v.

CHARLES CHAMP,

Respondent.

No. 1:10-mc-27

RODRIGO PEREZ PALLARES; and
RICARDO REIS VEIGA,

Petitioners,

v.

CHARLES CHAMP,

Respondent

No. 1:01-mc-28

**DECLARATION OF CLAUDIA M. BARRETT IN SUPPORT OF
CHEVRON'S RESPONSE TO RESPONDENT CHARLES CHAMP'S
AND THE ECUADORIAN PLAINTIFFS' RULE 72 OBJECTIONS**

I, Claudia M. Barrett, declare as follows:

1. I am an attorney licensed to practice law in the State of California and the District of Columbia. I am an associate in the law firm of Gibson, Dunn & Crutcher, LLP ("Gibson Dunn"). I make this declaration in support of Chevron's Response to Respondent Charles Champ's and the Ecuadorian Plaintiffs' Rule 72 Objections. If called as a witness, I could and would testify to the same as stated herein.

2. Attached hereto as Exhibit A is a printed timeline of events and statements related to Richard Stalin Cabrera Vega's ("Cabrera") court-ordered "independence," "impartiality," and "transparency." During the course of my representation, I have reviewed several pleadings submitted by Cabrera and the Ecuadorian Plaintiffs ("Plaintiffs") in the Lago Agrio Litigation; court orders from the Lago Agrio Litigation; pleadings, submissions, and hearing transcripts from related Section 1782 proceedings pending before other United States District Courts; media articles and related documents concerning this litigation; and unreleased footage from the movie *Crude* that were recently produced to Chevron by Joseph Berlinger. The timeline attached hereto as Exhibit A was created based on a review of these categories of documents.

3. I have reviewed the printed timeline in Exhibit A.

4. Attached hereto as Exhibit B is a true and correct copy of Stratus Consulting, Inc.'s Comments on Richard Cabrera Vega's Expert Report, dated December 1, 2008.

5. Attached hereto as Exhibit C is a true and correct copy of a filing in the Lago Agrio Litigation by Plaintiffs dated May 10, 2007, declaring that the logic behind appointing a single expert is due to the expert's impartiality, and a certified English translation thereof.

6. Attached hereto as Exhibit D is a true and correct copy of a filing in the Lago Agrio Litigation by Cabrera dated November 6, 2007, stating his commitment to perform his expert work in an objective, professional, impartial, and transparent manner, and a certified English translation thereof.

7. Attached hereto as Exhibit E is a true and correct copy of a filing in the Lago Agrio Litigation by Cabrera dated November 6, 2007, regarding Cabrera's Work Plan, and a certified English translation thereof.

8. Attached hereto as Exhibit F is a true and correct copy of a filing in the Lago Agrio Litigation by Cabrera dated November 9, 2007, stating that he sought to conduct a "thorough, impartial, and objective investigation in strict observance of the law," and a certified English translation thereof.

9. Attached hereto as Exhibit G is a true and correct copy of a filing in the Lago Agrio Litigation by Cabrera dated December 11, 2007, stating that his expert report is “completely impartial,” and a certified English translation thereof.

10. Attached hereto as Exhibit H is a true and correct copy of a filing in the Lago Agrio Litigation by Plaintiffs dated April 4, 2008, asserting no relationship between Cabrera and Plaintiffs, and a certified English translation thereof.

11. Attached hereto as Exhibit I is a true and correct copy of a filing in the Lago Agrio Litigation by Plaintiffs dated April 18, 2008, asserting Cabrera was free of external pressures from the parties, and a certified English translation thereof.

12. Attached hereto as Exhibit J is a true and correct copy of a filing in the Lago Agrio Litigation by Plaintiffs dated April 25, 2008, dismissing claims of impropriety, and a certified English translation thereof.

13. Attached hereto as Exhibit K is a true and correct copy of a filing in the Lago Agrio Litigation by Plaintiffs dated June 4, 2008, asserting no collusion between Cabrera and Plaintiffs, and a certified English translation thereof.

14. Attached hereto as Exhibit L is a true and correct copy of a filing in the Lago Agrio Litigation by Cabrera dated November 7, 2008, stating that the drafts of his reports had been deleted, and a certified English translation thereof.

15. Attached hereto as Exhibit M is a true and correct copy of a filing in the Lago Agrio Litigation by Plaintiffs dated February 3, 2009, declaring that Cabrera’s responses constituted an objective and impartial opinion, and a certified English translation thereof.

16. Attached hereto as Exhibit N is a true and correct copy of a Press Release issued by Amazon Defense Coalition entitled *Chevron’s \$27 Billion Liability in Ecuador’s Amazon Confirmed by Team of Independent Scientists*, dated December 1, 2008, available at <http://chevrontoxico.com/news-and-multimedia/2008/1201-chevrons-27-billion-liability-in-ecuadors-amazon-confirmed.html>.

17. Attached hereto as Exhibit O is a true and correct copy of a filing in the Lago Agrio Litigation by Plaintiffs dated April 22, 2009, asserting Cabrera's objectivity and impartiality, and a certified English translation thereof.

18. Attached hereto as Exhibit P is a true and correct copy of portions of the certified transcript of the Deposition of David Chapman, taken on April 23, 2010.

19. Attached hereto as Exhibit Q is a true and correct copy of Plaintiffs' August 13, 2010 Opposition to Chevron's Motion to Compel filed in *Chevron Corp. v. Stratus Consulting, Inc.*, No. 1:10-cv-00047-MSK-MEH (D. Colo.) ("*Stratus 1782*").

20. Attached hereto as Exhibit R is a true and correct copy of Stratus' May 18, 2010 Status Report filed in *Stratus 1782*.

21. Attached hereto as Exhibit S is a true and correct copy of Plaintiffs' Privilege Log Pertaining to Stratus Consulting Documents as of August 20, 2010 submitted to Chevron in *Stratus 1782*.

22. Attached hereto as Exhibit T is a true and correct copy of an Expert Witness Report on Disputed Authorship of the Cabrera Report prepared by Professor M. Teresa Turell, Ph.D. dated June 25, 2010.

23. Attached hereto as Exhibit U is a true and correct copy of a filing in the Lago Agrio Litigation by Cabrera dated October 11, 2007, and a certified English translation thereof.

24. Attached hereto as Exhibit V is a true and correct copy of a Declaration by Chevron's counsel, Adolfo Callejas (May 10, 2010).

25. Attached hereto as Exhibit W is a true and correct copy of the transcript of the August 27, 2010 hearing in this matter.

26. Attached hereto as Exhibit X is a DVD containing selected excerpts from unreleased footage from the movie *Crude*. Pursuant to a court order issued July 2, 2010, in *In re Application of Chevron Corp.*, No. M-19-111 (S.D.N.Y.) and subsequently affirmed by the Second Circuit Court of Appeals, on July 19, 2010, Joseph Berlinger began producing to Chevron unreleased footage ("outtakes") gathered during the filming of the movie *Crude*. The

excerpt included in Exhibit X is a segment of video excerpted from digitized copies of the tapes produced by Berlinger. The digitized copies were created, pursuant to Berlinger's request, by a reputable post production house called PostWorks, located in New York City.

27. I have reviewed the video file contained in Exhibit X and the transcriptions and translations of the video files contained in Exhibits Y, Z, and AA.

28. During the course of my representation of Chevron, I have developed personal knowledge of the visual identities of Steven Donziger (counsel for Plaintiffs) and Luis Yanza (coordinator for Plaintiffs and representative of Amazon Defense Front and Frente de Defensa de la Amazonia). I have discussed and confirmed the identification of Messrs. Donziger and Yanza in the video files on Exhibit X with other attorneys who represent Chevron.

29. Attached hereto as Exhibit Y is a true and correct copy of a transcript of video file 052-00-CLIP-05, in Exhibit X, a video file shot on March 30, 2006 which comes from the unreleased footage of the movie *Crude*. The footage was produced to Chevron by Joseph Berlinger from July 19, 2010 to July 29, 2010, pursuant to a court order issued July 20, 2010, in *In re Application of Chevron Corp.*, No. M-19-111 (S.D.N.Y.).

30. Attached hereto as Exhibit Z a true and correct copy of a transcript of video file 350-04-CLIP-02, in Exhibit X, a video file shot on June 6, 2007, according to the footage log of Mr. Berlinger, and depicts a portion of a June 6, 2007 meeting attended by Steven Donziger, Atossa Soltani, Luis Yanza, Kevin Koenig, and Luis Villacres. During this meeting, Donziger discusses the need for Plaintiffs to "do more, politically, to control the court, to pressure the court" since, according to Donziger, the Ecuadorian court "make[s] decisions based on who they fear the most."

31. Attached hereto as Exhibit AA a true and correct copy of a transcript of video file 129-00-CLIP-02, in Exhibit X, which depicts Steven Donziger with a woman and Alejandro Ponce Villacis at a restaurant according to the footage log of Joseph Berlinger. The woman observes that no judge would rule against the Plaintiffs because "[h]e'll be killed." Donziger agrees, then comments, "He might not be, but . . . he thinks he will be . . . Which is just as good."

Donziger then states, “You can solve anything with politics as long as the judges are intelligent enough to understand the politics. . . [T]hey don’t have to be intelligent enough to understand the law, just as long as they understand the politics.”

32. Attached hereto as Exhibit BB is a true and correct copy of Plaintiffs’ Reply in Support of Motion for Protective Order; May 17, 2010, in *Stratus Consulting, Inc.*, No. 10-cv-00047-MSK-MEH (D. Colo. May 17, 2010).

33. Attached hereto as Exhibit CC is a true and correct copy of Plaintiffs’ Brief and Special Appendix; June 14, 2010, in *Berlinger*, Nos. 10-1918-cv(L),10-1966-cv(CON) (2d. Cir. June 14, 2010)),

34. Attached hereto as Exhibit DD is the Transcript of the July 14, 2010 Oral Argument in *Chevron Corp. v. Berlinger*, No. 10-1918-cv (2nd Cir.).

35. Attached hereto as Exhibit EE is a true and correct copy of the Affidavit of Dr. César Coronel Jones, dated August 31, 2010, and the corresponding English translation.

36. Attached hereto as Exhibit FF is a true and correct copy of the Affidavit of Dr. Gustavo Romero Ponce, dated August 31, 2010, and the corresponding English translation.

37. Attached hereto as Exhibit GG is a true and correct copy of “A White Paper Describing Produced Water from Production of Crude Oil, Natural Gas, and Coal Bed Methane,” Prepared by Argonne National Laboratory for the U.S. Dep’t of Energy (Jan. 2004), available at <http://www.evs.anl.gov/pub/doc/ProducedWatersWP0401.pdf>.

38. Attached hereto as Exhibit HH is a true and correct copy of a filing in the Lago Agrio Litigation by Plaintiffs dated March 23, 2010, asking the Lago Agrio court to “dispense with the three [pending court] expert investigations” and to order that “there is not any more evidence to be taken” and that the case “is now ripe for judgment,” and a certified English translation thereof.

39. Attached hereto as Exhibit II is a true and correct copy of a filing in the Lago Agrio Litigation by Plaintiffs dated March 24, 2010, asking the court to establish a “one-time non-extendible period of three days” for the submission of all evidence “to prove the presence of

the essential errors” alleged by Chevron in the work of Plaintiffs’ experts at twelve different inspection sites and to order that “the case is ripe for judgment,” and a certified English translation thereof.

I declare on this 13th day of September, 2010 in Washington, DC, under penalty of perjury of the laws of the United States and the District of Columbia, that the foregoing is true and correct.

/s/ Claudia M. Barrett

Claudia M. Barrett

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served on September 13, 2010, on counsel registered for electronic service via the Court's CM/ECF system and on the following via electronic mail:

Wyatt S. Stevens ROBERTS & STEVENS, P.A. BB&T Building, Suite 1100 P.O. Box 7647 Asheville, NC 28802	<i>Counsel for Respondent Charles Champ and Interested Parties the Ecuadorian Plaintiffs</i> T: 828-258-6992 wstevens@roberts-stevens.com
Jonathan S. Abady Ilann Maazel Andrew F. Wilson Matthew Brinckerhoff EMERY CELLI BRINCKERHOFF & ABADY LLP 75 Rockefeller Plaza, 20th Floor New York, NY 10019	<i>Counsel for Plaintiffs in the Yaiguaje Litigation (S.D.N.Y.); Laura Belanger, Peter Jones and Interested Parties, the Plaintiffs in the Yaiguaje Litigation [Dist. of CO.];[SD Texas]</i> T: 212-763-5000 F: 212-763-5001 jabady@ecbalaw.com imaazel@ecbalaw.com awilson@ecbalaw.com
Steven R. Donziger 245 W. 104th St. New York, NY 10025-4249	<i>Counsel for Plaintiffs in the Yaiguaje Litigation (S.D.N.Y.)</i> T: 917-566-2526 sdonziger@donzigerandassociates.com
Eric W. Bloom Lauren Butcher Tomas Leonard WINSTON & STRAWN LLP 1700 K Street, NW Washington, D.C. 20006	<i>Counsel for ROE in SDNY II Litigation</i> T: 202-282-5743 F: 202-282-5100 ebloom@winston.com lbutcher@winston.com tleonard@winston.com
C. MacNeil Mitchell WINSTON & STRAWN LLP 200 Park Avenue New York, NY 10166	<i>Counsel for ROE in SDNY II Litigation</i> T: 212-294-6700 F: 212-294-4700 cmitchell@winston.com

Ricardo E. Ugarte WINSTON & STRAWN LLP 35 Wacker Drive Chicago, IL 60601	<i>Counsel for ROE in SDNY II Litigation</i> T: 312-558-6130 F: 312-558-5700 rugarte@winston.com
David S. Bloch WINSTON & STRAWN LLP 101 California Street San Francisco, CA 94111-5801	<i>Counsel for Interested Party, the ROE in Stratus 1782 proceeding (with Eric Bloom) (Dist. of CO.)</i> T: 415-591-1000 dbloch@winston.com
William H. Narwold Ingrid L. Moll Matthew P. Jasinski Motley Rice, LLC One Corporate Center 20 Church Street, 17th Floor Hartford, CT 06103 imoll@motleyrice.com	<i>Counsel for Plaintiffs in the Yaiguaje Litigation</i> T: 800-768-4026 bnarwold@motleyrice.com imoll@motleyrice.com mjasinski@motleyrice.com

/s/ Claudia M. Barrett
Claudia M. Barrett